

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CASSANDRA BARNES

Plaintiff,

vs.

CITY OF ADAMSVILLE, as a person
under U.S.C. § 1983; et al

Defendants.

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CIVIL ACTION NO.
CV-10-JEO-1468-S

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

Comes Now the plaintiff, Cassandra Barnes, by and through her attorney of record in the above-styled cause and responds to the Defendants' Motion To Dismiss in the following:

1. Plaintiff has filed an Amended Complaint which does establish a prima facie case.

2. Plaintiff's Amended Complaint does contain plausible claims for relief on its face and has pled all the applicable statutes under which relief may be granted.

3. Plaintiff does concede that the City of Adamsville Police Department is not a sueable entity in that it is derivative and is encompassed within the City of Adamsville, which in fact is a defendant in this case.

4. Given the amendments to the plaintiff's Complaint, the fact that the plaintiff is a member of a protected group, met job qualifications, co-employees younger than the plaintiff and white male police officers were treated more favorably than the plaintiff, and the plaintiff was discharge in retaliation of filing EEOC charges against the Adamsville Police Department, a division of the City of Adamsville, defendants' Motion To Dismiss should be denied.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Honorable Court denies Defendants' Motion To Dismiss.

Respectfully submitted,

s/Victor R. Spencer
Victor R. Spencer(SPE029)
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Plaintiff's Response To Defendants' Motion To Dismiss on the party listed below via electronically filing same with the Clerk of the Court on this the 27th day of July, 2010.

Michael A. Casey, Jr., Esq.
1020 22nd Street South
Birmingham, Alabama 35205

s/Victor R. Spencer
Victor R. Spencer